

United States
Circuit Court of Appeals
For the Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiff in Error,
vs.

THE SOUTHERN PACIFIC COMPANY, a Cor-
poration,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court
of the District of Arizona.

Filed

AUG 10 1914

F. D. Monckton,
Clerk.

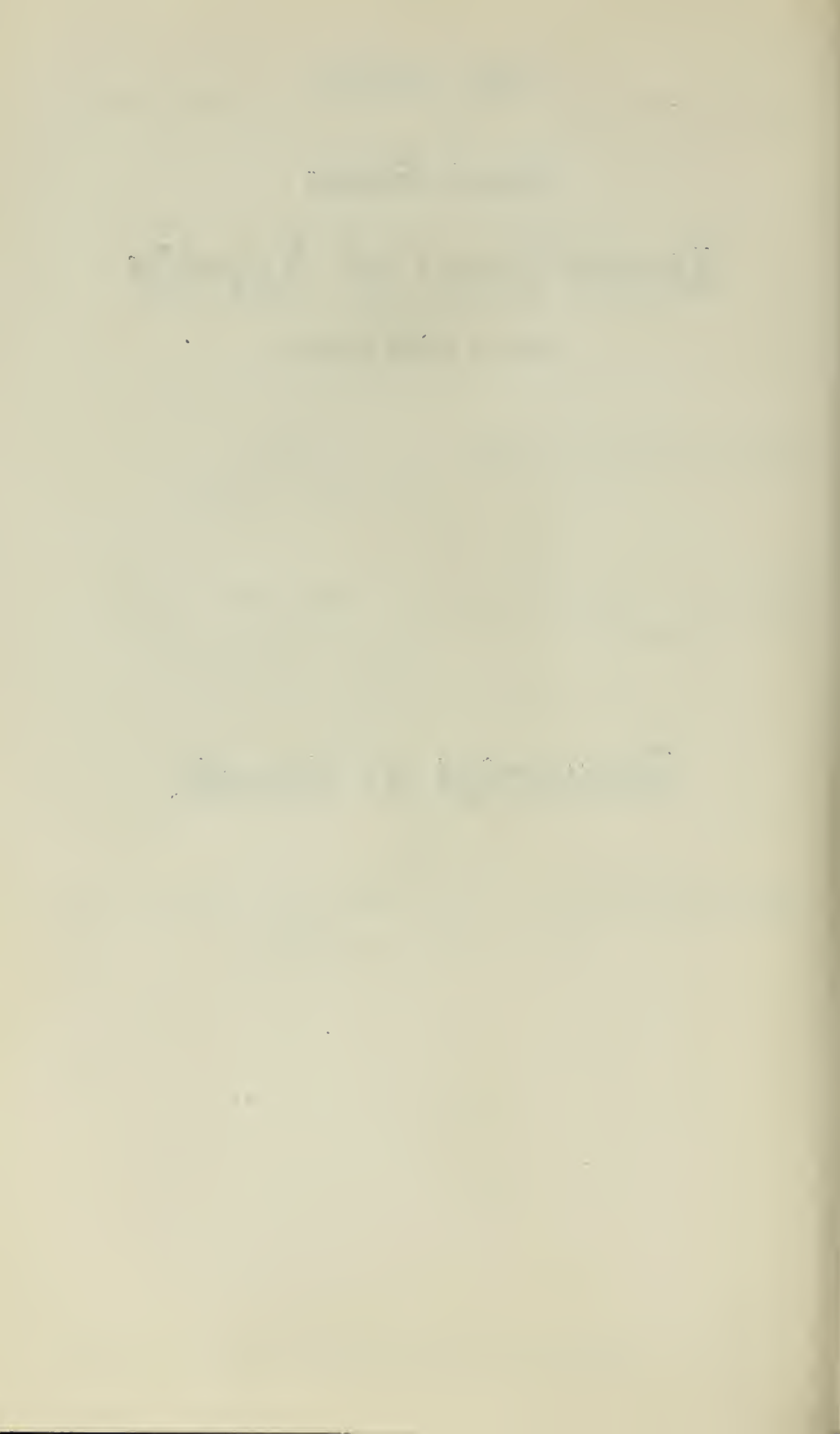
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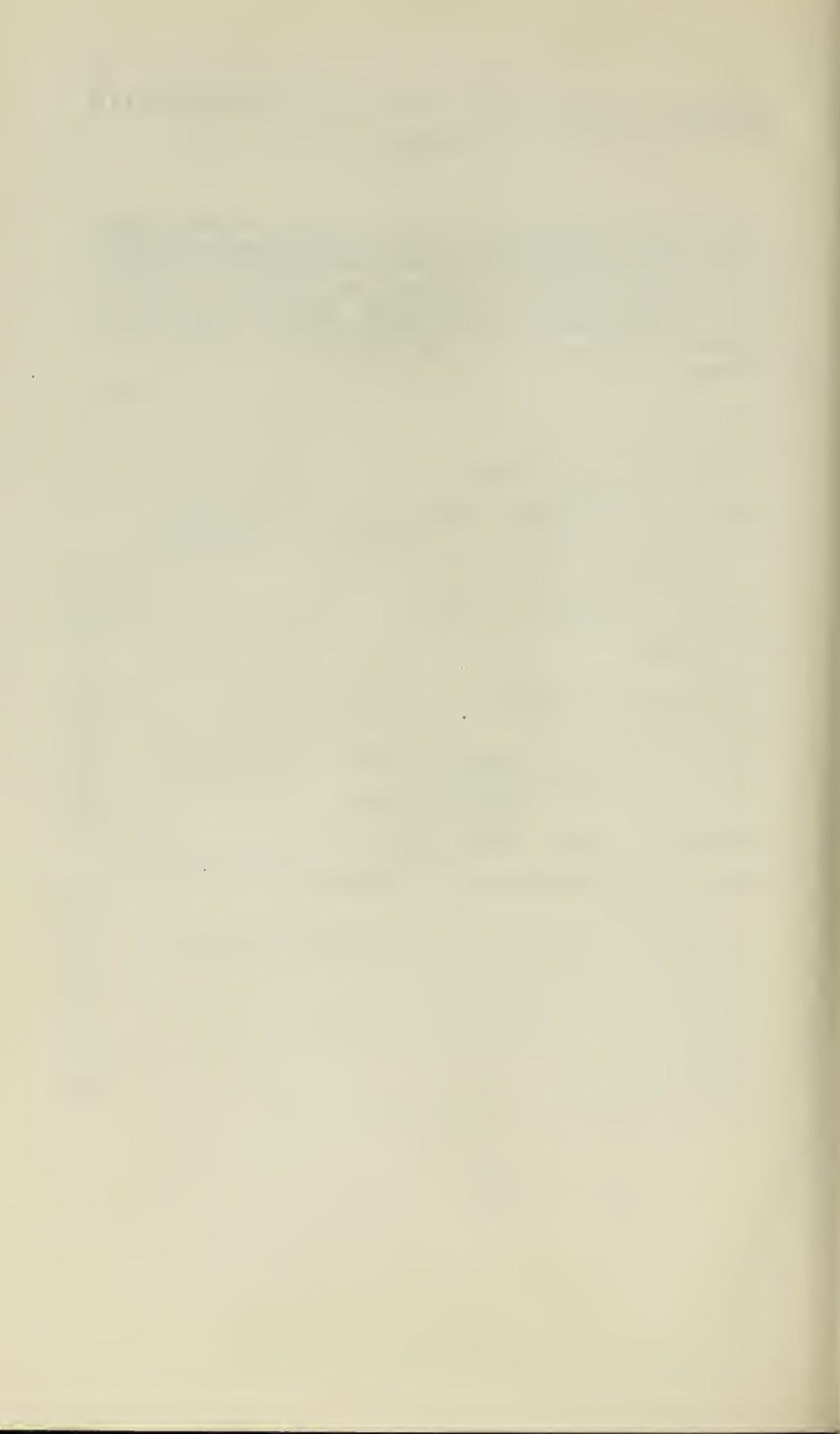
Upon Writ of Error to the United States District Court
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Names and Addresses of Attorneys of Record.]

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FRANCIS M. HARTMAN, Esquire,

FRANK COX, Esquire,

B. O. BAKER, Esquire,
Counsel for the Defendant.

[Complaint.]

*In the District Court of the United States for the
District of Arizona, ——— Division.*

No. 2098.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Now comes the United States of America, by Joseph E. Morrison, United States Attorney for the District of Arizona, and brings this action on behalf of the United States against the Southern Pacific Company, a corporation organized and doing business under the laws of the State of Kentucky, and having an office and place of business at Benson, in the State of Arizona; this action being brought upon the suggestion of the Attorney General of the United States at the request of the Interstate Commerce

Commission, and upon information furnished by said Commission.

FOR A FIRST CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all the times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Co-chise, in the State of Arizona, within the jurisdiction of this court, required and permitted its certain engineer and employee, to wit: Billy F. Eaker, to be and remain on duty as such for a longer period [1*] than sixteen consecutive hours, to wit: from said hour of 5:30 o'clock A. M., on said date, to the hour of 10:29 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2813, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is lia-

*Page-number appearing at foot of page of original certified Record.

ble to plaintiff in the sum of five hundred dollars.

FOR A SECOND CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all the time mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the State of Arizona, within the jurisdiction of this court, required and permitted its certain fireman and employee, to wit: Frank H. Kempf, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:30 o'clock A. M., on said date, to the hour of 10:29 A. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2813, said train being then and there engaged in the movement of interstate traffic. [2]

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

FOR A THIRD CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all the time mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Benson in the State of Arizona, within the jurisdiction of this court, required and permitted its certain conductor and employee, to wit: B. T. Sullivan, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:30 o'clock A. M., on said date, to the hour of 12:40 o'clock A. M., on December 22, 1912.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2813, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

FOR A FOURTH CAUSE OF ACTION, plain-

tiff alleges that said defendant is, and was during all the times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and [3] travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico and Benson, in the State of Arizona, within the jurisdiction of this court, required and permitted its certain trainmen and employee, to wit: W. E. Brown, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:30 o'clock A. M., on said date, to the hour of 12:40 A. M., on December 22, 1912.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2813, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

FOR A FIFTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all the

times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Benson, in the State of Arizona, within the jurisdiction of this court, required and permitted its certain trainman and employee, to wit: H. F. Peacock, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:30 o'clock A. M., on said date, to the [4] hour of 12:40 o'clock A. M., on December 22, 1912.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2813, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of Five Hundred Dollars.

FOR A SIXTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all the

times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Benson, in the State of Arizona, within the jurisdiction of this court, required and permitted its certain trainman and employee, to wit, C. G. Harrison, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit, from said hour of 5:30 o'clock A. M., on said date, to the hour of 12:40 o'clock A. M., on December 22, 1912.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2813, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.
[5]

FOR A SEVENTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during

all the time mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:20 o'clock A. M., on December 22, 1912, upon its line of railroad at and between the stations of Tucson, in the State of Arizona, and Bowie, in said State, within the jurisdiction of this court, required and permitted its certain engineer and employee, to wit: C. J. Maben, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:20 o'clock A. M., on said date, to the hour of 10:50 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2794, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.
[6]

FOR AN EIGHTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all

the time mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:20 o'clock A. M., on December 22, 1912, upon its line of railroad at and between the stations of Tucson, in the State of Arizona, and Bowie, in said State, within the jurisdiction of this court, required and permitted its certain fireman and employee, to wit: J. E. Anderson, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:20 o'clock A. M., on said date, to the hour of 10:50 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2794, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

[7]

FOR A NINTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during all the

time mentioned herein, a common carrier engaged in interstate commerce by railroad in the States of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:20 o'clock A. M., on December 22, 1912, upon its line of railroad at and between the stations of Tucson, in the State of Arizona, and Bowie, in said State, within the jurisdiction of this court, required and permitted its certain conductor and employee, to wit: C. A. Owens, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:20 o'clock A. M., on said date, to the hour of 10:50 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2794, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

[8]

FOR A TENTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was during

all the times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:20 o'clock A. M., on December 22, 1912, upon its line of railroad at and between the stations of Tucson, in the State of Arizona, and Bowie, in said State, within the jurisdiction of this court, required and permitted its certain trainman and employee, to wit: J. F. Weathered, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:20 o'clock A. M., on said date, to the hour of 10:50 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2794, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

[9]

FOR AN ELEVENTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was dur-

ing all the times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:20 o'clock A. M., on December 22, 1912, upon its line of railroad at and between the stations of Tucson, in the State of Arizona, and Bowie, in said State, within the jurisdiction of this court, required and permitted its certain trainman and employee, to wit: G. Davis, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:20 o'clock A. M., on said date, to the hour of 10:50 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2794, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

[10]

FOR A TWELFTH CAUSE OF ACTION, plaintiff alleges that said defendant is, and was dur-

ing all the times mentioned herein, a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Plaintiff further alleges that in violation of the Act of Congress, known as "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), said defendant, beginning at the hour of 5:20 o'clock A. M., on December 22, 1912, upon its line of railroad at and between the stations of Tucson, in the State of Arizona, and Bowie, in said State, within the jurisdiction of this court, required and permitted its certain trainman and employee, to wit: E. Leinen, to be and remain on duty as such for a longer period than sixteen consecutive hours, to wit: from said hour of 5:20 o'clock A. M., on said date, to the hour of 10:50 o'clock P. M., on said date.

Plaintiff further alleges that said employee, while required and permitted to be and remain on duty as aforesaid, was engaged in and connected with the movement of said defendant's train Extra, drawn by its own locomotive engine No. 2794, said train being then and there engaged in the movement of interstate traffic.

Plaintiff further alleges that by reason of the violation of said Act of Congress, said defendant is liable to plaintiff in the sum of five hundred dollars.

[11]

WHEREFORE, plaintiff prays judgment against said defendant in the sum of six thousand dollars and

its costs herein expended.

JOSEPH E. MORRISON,
United States Attorney.

[Endorsements]: No. 5 (Tucson). No. 100. District Court of United States, District of Arizona. The United States of America, vs. Southern Pacific Company. Complaint. 16 Hour Service Law. Filed Aug. 14, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. [12]

[Answer.]

*In the District Court of the United States for the
District of Arizona.*

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Comes now the above-named defendant, Southern Pacific Company, and answering plaintiff's complaint on file herein, admits and denies as follows:

Admits that it is a corporation organized and existing under and by virtue of the laws of the State of Kentucky, and that it has an office and place of business at Benson, in the State of Arizona.

Admits that during all the times mentioned in plaintiff's complaint herein defendant was and is a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Answering plaintiff's alleged first cause of action,

set out in its complaint on file herein, defendant specifically denies that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), that this defendant, beginning at the hour of 5:30 o'clock A. M. on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the State of [13] Arizona, within the jurisdiction of the court, or at any other time, or place, or at all, required or permitted its certain engineer and employee, to wit: Billy F. Eaker, to be and remain on duty as such for a longer period than sixteen consecutive hours.

Admits that the said Billy F. Eaker was employed by the defendant herein, and on the dates mentioned in plaintiff's complaint was engaged in and connected with the movement of said defendant's train, extra, drawn by its own locomotive engine No. 2813, and that the said train was then and there engaged in the movement of interstate traffic; but denies that defendant required or permitted Billy F. Eaker to remain on duty continuously for more than sixteen consecutive hours as charged in plaintiff's complaint.

Defendant denies that at the time and place or times and places alleged in plaintiff's complaint, or at any other time or place, that this defendant violated the said Act of Congress referred to in plaintiff's complaint, and denies that this defendant is liable to the plaintiff in the sum of five hundred dol-

lars, or in any other sum, or amount, or at all.

Answering plaintiff's alleged second cause of action, set out in its complaint on file herein, defendant specifically denies that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large page 1415), that this defendant, beginning at the hour of 5:30 o'clock A. M. on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the State of [14] Arizona, within the jurisdiction of the court, or at any other time, or place, or at all, required or permitted its certain fireman and employee, to wit: Frank H. Kempf, to be and remain on duty as such for a longer period than sixteen consecutive hours.

Admits that the said Frank H. Kempf was employed by the defendant herein, and on the dates mentioned in plaintiff's complaint was engaged in and connected with the movement of said defendant's train, extra, drawn by its own locomotive engine No. 2813, and that the said train was then and there engaged in the movement of interstate traffic; but denies that defendant required or permitted Frank H. Kempf to remain on duty continuously for more than sixteen consecutive hours as charged in plaintiff's complaint.

Defendant denies that at the time and place or times and places alleged in plaintiff's complaint, or at any other time or place, that this defendant vio-

lated the said Act of Congress referred to in plaintiff's complaint, and denies that this defendant is liable to the plaintiff in the sum of five hundred dollars, or in any other sum, or amount, or at all.

Answering plaintiff's alleged third cause of action, set out in its complaint on file herein, defendant specifically denies that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), that this defendant, beginning at the hour of 5:30 o'clock A. M. on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the State of [15] Arizona, within the jurisdiction of the court, or at any other time, or place, or at all, required or permitted its certain conductor and employee, to wit: B. T. Sullivan, to be and remain on duty as such for a longer period than sixteen consecutive hours.

Admits that the said B. T. Sullivan was employed by the defendant herein, and on the dates mentioned in plaintiff's complaint was engaged in and connected with the movement of said defendant's train, extra, drawn by its own locomotive engine No. 2813, and that the said train was then and there engaged in the movement of interstate traffic; but denies that defendant required or permitted B. T. Sullivan to remain on duty continuously for more than sixteen consecutive hours as charged in plaintiff's complaint.

Defendant denies that the time and place or times

and places alleged in plaintiff's complaint, or at any other time or place, that this defendant violated the said Act of Congress referred to in plaintiff's complaint, and denies that this defendant is liable to the plaintiff in the sum of five hundred dollars, or in any other sum, or amount, or at all.

Answering plaintiff's alleged fourth cause of action, set out in its complaint on file herein, defendant specifically denies that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), that this defendant, beginning at the hour of 5:30 o'clock A. M. on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the State of [16] Arizona, within the jurisdiction of this court, or at any other time, or place, or at all, required or permitted its certain trainman and employee, to wit: W. E. Brown, to be and remain on duty as such for a longer period than sixteen consecutive hours.

Admits that the said W. E. Brown was employed by the defendant herein, and on the dates mentioned in plaintiff's complaint was engaged in and connected with the movement of said defendant's train, extra, drawn by its own locomotive engine No. 2813, and that the said train was then and there engaged in the movement of interstate traffic; but denies that defendant required or permitted W. E. Brown to remain on duty continuously for more than sixteen

consecutive hours as charged in plaintiff's complaint.

Defendant denies that at the time and place or times and places alleged in plaintiff's complaint, or at any other time or place, that this defendant violated the said Act of Congress referred to in plaintiff's complaint, and denies that this defendant is liable to the plaintiff in the sum of five hundred dollars, or in any other sum, or amounts, or at all.

Answering plaintiff's alleged fifth cause of action, set out in its complaint on file herein, defendant specifically denies that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), that this defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the State of [17] Arizona, within the jurisdiction of this court, or at any other time, or place, or at all, required or permitted its certain train man and employee, to wit: H. F. Peacock, to be and remain on duty as such for a longer period than sixteen consecutive hours.

Admits that the said H. F. Peacock was employed by the defendant herein, and on the dates mentioned in plaintiff's complaint was engaged in and connected with the movement of said defendant's train, extra, drawn by its own locomotive engine No. 2813, and that the said train was then and there engaged in the movement of interstate traffic; but denies that

defendant required or permitted H. F. Peacock to remain on duty continuously for more than sixteen consecutive hours as charged in plaintiff's complaint.

Defendant denies that at the time and place or times and places alleged in plaintiff's complaint, or at any other time or place, that this defendant violated the said Act of Congress referred to in plaintiff's complaint, and denies that this defendant is liable to the plaintiff in the sum of five hundred dollars, or in any other sum, or amount, or at all.

Answering plaintiff's alleged sixth cause of action, set out in its complaint on file herein, defendant specifically denies that in violation of the Act of Congress known as "An Act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (contained in 34 Statutes at Large, page 1415), that this defendant, beginning at the hour of 5:30 o'clock A. M., on December 21, 1912, upon its line of railroad at and between the stations of Lordsburg, in the State of New Mexico, and Cochise, in the state of [18] Arizona, within the jurisdiction of this court, or at any other time, or place, or at all, required or permitted its certain trainman and employee, to wit: C. G. Harrison, to be and remain on duty as such for a longer period than sixteen consecutive hours.

Admits that the said C. G. Harrison was employed by the defendant herein, and on the dates mentioned in plaintiff's complaint was engaged in and connected with the movement of said defendant's train, extra, drawn by its own locomotive engine No. 2813, and

that the said train was then and there engaged in the movement of interstate traffic; but denies that defendant required or permitted C. G. Harrison to remain on duty continuously for more than sixteen consecutive hours as charged in plaintiff's complaint.

Defendant denies that the time and place or times and places alleged in plaintiff's complaint, or at any other time or place, that this defendant violated the said Act of Congress referred to in plaintiff's complaint, and denies that this defendant is liable to the plaintiff in the sum of five hundred dollars, or in any other sum, or amount, or at all.

Defendant, for its answer herein to plaintiff's alleged causes of action Nos. 7, 8, 9, 10, 11, and 12, in its complaint herein contained, admits that during all the time mentioned therein it was a common carrier engaged in interstate commerce by railroad in the State of Arizona.

Admits that the persons named in the above-numbered counts in plaintiff's complaint were at the time mentioned employees of the defendant company.
[19]

Admits that the said persons, constituting the crew of extra No. 2794, mentioned in plaintiff's complaint, were called to leave Tucson at 5:50 A. M., which would put them on duty at 5:20 A. M., of the date mentioned, and were each and all of them relieved at 10:50 P. M., of the same date.

The defendant alleges, by way of relief and exoneration from the provisions of the statute in plaintiff's said complaint set out, that the said extra train No. 2794 was delayed and detained en route at a

station called Esmond, in the county of Pima, State of Arizona, while en route on the day and date named in plaintiff's complaint for the period of one hour and thirty minutes on account of and by reason of the said train breaking-in-two, and that the said break-in-two and delay of one hour and thirty minutes was the result of a cause not known to the defendant or its officers, agents, or any of them in charge of said train and of such employees at the time said train and employees left Tucson, the terminal, from which it started at ——— A. M., on said date; and that the same was caused by an unavoidable accident and one that could not have been foreseen by this defendant or any of its officers, agents or employees; all of which and the time of delay was promptly reported to the Interstate Commerce Commission by the defendant herein, together with the defendant's claim of exemption for the one hour and thirty minutes delay at Esmond as aforesaid.

WHEREFORE, defendant prays that the delay of one hour and thirty minutes, by reason of the unavoidable accident as aforesaid, be allowed defendant, and that the provisions of this act shall not apply to this defendant in the alleged causes of action contained in counts seven, eight, nine, ten, eleven and twelve set forth in plaintiff's complaint, and that the defendant go hence without day, together with its costs.

FRANK COX and
FRANCIS M. HARTMAN,
Attorneys for Defendant. [20]

Received copy of this answer on September 19th, 1913.

J. E. MORRISON,
U. S. Attorney.

[Endorsement]: No. 5 (Tucson). No. 100. In the District Court of the United States for the District of Arizona. The United States of America, Plaintiff, vs. Southern Pacific Company, Defendant. Defendant's Answer. Frank Cox, Phoenix, Arizona, Francis M. Hartman, Tucson, Arizona, Attorneys for Defendant. Filed Sept. 18, 1913. Allan B. Jaynes, Clerk. By Frank E. McCrary, Deputy. [21]

*In the District Court of the United States for the
District of Arizona.*

No. 5.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY,
Defendant.

Demurrer to Answer.

Now comes the above-named plaintiff, by its attorney, and demurs to that part of the defendant's answer filed herein relating to the 7th, 8th, 9th, 10th, 11th, and 12th causes of action of plaintiff's petition, and assigns the following grounds of demurrer:

1. It does not appear that the breaking-in-two of the train at Esmond, and the delay thereto, was not

known to the defendant, or its officer or agent in charge of said employees at the time they left a terminal.

2. It does not appear that the breaking-in-two of the train at Esmond prevented the defendant from relieving the employee named in any of said causes of action before he had been continuously on duty more than sixteen hours.

3. It does not appear that the failure of the defendant to relieve the employee named in any of said causes of action before he had been continuously on duty more than sixteen hours was due to a casualty of unavoidable accident or the act of God; or that the failure to so relieve such employee was the result of a cause not known to the defendant or its officer or agent in charge of such employee at the time he left a terminal and which could not have been foreseen.

4. It does not appear that the defendant made any effort whatsoever to relieve the employee named in any of said causes of action before he had been continuously on duty more than sixteen hours. [22]

5. The facts pleaded do not constitute a defense to any of said causes of action.

THOMAS A. FLYNN,

United States Attorney.

[Endorsement]: No. 5. (Tucson). In the District Court of the United States, Dist. of Arizona. The United States of America vs. Southern Pacific Company. Demurrer to Answer. Thos. A. Flynn, Phoenix, Arizona, Attorney for Plaintiff. Filed May 18, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy. [23]

**[Motion of Defendant for Judgment on Pleadings,
etc.]**

*In the United States District Court for the District
of Arizona.*

No. 5.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant.

Now comes the above-named defendant, Southern Pacific Company, by its attorneys, and moves for judgment in its favor on the seventh, eighth, ninth, tenth, eleventh, and twelfth causes of action of plaintiff's petition.

FRANK COX,

FRANCIS M. HARTMAN,

B. O. BAKER,

Attorneys for Defendant.

[Endorsement]: No. 5 (Tucson). In the United States District Court for the District of Arizona. United States of America, Plaintiff, vs. Southern Pacific Company, a Corporation, Defendant. Defendant's Motion for Judgment on the Pleadings as to Counts Seven, Eight, Nine, Ten, Eleven, and Twelve. Filed May 22, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy. [24]

[Minutes of Court—May 21, 1914.]

*In the United States District Court, District of
Arizona.*

Minute Entry of Thursday, May 21st, 1914.

No. 5 (TUCSON).

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant.

On this day this cause came on for hearing on the demurrer of the plaintiff to the answer of the defendant to the 7th, 8th, 9th, 10th, 11th, and 12th causes of action set forth in the complaint, and said demurrer was thereupon argued by M. C. List, Esquire, on behalf of the plaintiff, and by Francis M. Hartman, Esquire, on behalf of the defendant, and was submitted to the Court for decision, and thereupon it was ordered that said demurrer be overruled, to which order and ruling of the court, the plaintiff, by its counsel, then and there in open court excepted. The plaintiff declined to amend its complaint with respect to the 7th, 8th, 9th, 10th, 11th, and 12th causes of action set forth therein, and declined to plead further with respect thereto, but elected to stand upon the pleadings, and thereupon the cause was called for trial upon the 1st, 2d, 3d, 4th, 5th, and 6th causes of action set forth in the complaint. Whereupon the Clerk was ordered to

draw eighteen names from the box wherein he had deposited in the presence of the Court the names of the jurors summoned and not excused, and the names of eighteen persons were thereupon drawn and all answering thereto respectively, took their places in the jury-box. The said jurors were then sworn and examined on their *voir dire*. The panel being now full and complete, and said jurors in the jury-box having been passed for cause by both the plaintiff and the defendant, the respective parties exercise their right of peremptory challenge, and the following named jurors were called according to law to constitute the jury, viz.: A. Shapard, J. W. Kellum, Richard Starr, Harry P. Suman, Kenneth Brown, H. F. Schurrer, W. G. Powers, J. E. Lindley, S. M. Warner, C. A. Beardsley, Wm. Powers, and Don Blankenship, who were duly sworn [25] to well and truly try the issues joined between the United States of America and the defendant herein. E. B. Van Vreen was duly sworn as court reporter herein. The respective counsel then read aloud the pleadings herein to the jury and stated the issues to be tried herein. Upon motion of the plaintiff, it is ordered that all witnesses be called and placed under the rule and thereupon Frank H. Kempf, Billy F. Eaker, B. T. Sullivan, H. F. Peacock, C. G. Harrison, and J. H. Dyer, were called as witnesses for the plaintiff, sworn and placed under the rule; and W. Wilson, J. E. Lovejoy were called as witnesses for the defendant, sworn and placed under the rule. The plaintiff then, to maintain upon its part the issues herein, called as witness Wm. Wilson, who was

duly examined and cross-examined, and offered in evidence two exhibits, Exhibits "A" and "B," which were admitted in evidence and filed, and this being the regular time for adjournment of this court, the Court duly instructed the jury and excused them from further service in this case until Friday, the 22d day of May, A. D. 1914, at ten o'clock A. M., to which time the further trial of this case is now ordered continued. [26]

[Minutes of Court—May 22, 1914.]

*In the United States District Court, District of
Arizona.*

Minute Entry of Friday, May 22d, 1914.

No. 5 (TUCSON).

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant.

This case having been continued from Thursday, May 21st, 1914, come now the same parties hereto and come also the jurors herein, their names are called and all answering thereto, respectively, the further trial of the case proceeds as follows: The plaintiff, to further maintain upon its part the issue herein, recalled Wm. Wilson for further examination in chief, and called as witnesses, B. T. Sullivan and Billy F. Eaker, who were duly examined and

cross-examined, and offered in evidence three exhibits, Exhibits "C," "D," and "E," which were admitted and filed, and thereupon the plaintiff rested its case. The defendant then, to maintain upon its part the issues herein called as witness, J. E. Lovejoy, who was duly examined and cross-examined, and offered in evidence four exhibits, "Exhibits 1, 2, 6, and 7," which were admitted and filed, and three exhibits, "Exhibits 3, 4, and 5," which were rejected and filed, and thereupon the defendant rested its case. The plaintiff then made and filed motion that the Court direct the jury to return a verdict in favor of the plaintiff upon the 1st and 2d, and upon the 3d, 4th, 5th, and 6th causes of action, and the defendant made and filed its motion that the Court direct the jury to return a verdict in favor of the defendant upon said cause of action and that in case said motion should be denied that it have leave to go to the jury. After hearing argument of counsel for the respective parties, the Court denied the motion of the defendant and granted that of the plaintiff and directed the jury to find for the plaintiff upon the 1st, 2d, 3d, 4th, 5th, and 6th causes of action, to which ruling of the Court in denying its motion to [27] direct a verdict and in directing the jury to return a verdict for the plaintiff, the defendant, by its counsel, then and there in open court excepted. Thereupon, by direction of the Court, the jury returned the following verdict:

No. 5.

“UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY,

Defendant.

Verdict.

We, the jury, duly empaneled and sworn in the above-entitled action, upon our oaths do find for the said plaintiff as to each and all of the counts from one to six, inclusive.

K. B. BROWN,
Foreman.”

Whereupon, said jury was ordered discharged from this case.

Thereupon the defendant moved for judgment in its favor upon the 7th, 8th, 9th, 10th, 11th, and 12th causes of action set forth in the complaint, and it was thereupon ordered that judgment be entered in favor of the plaintiff upon the 1st, 2d, 3d, 4th, 5th, and 6th causes of action, and for the defendant upon the 7th, 8th, 9th, 10th, 11th, and 12th causes of action, the plaintiff, by its counsel, then and there in open court, excepted, and to which order and ruling of the Court in directing the entry of judgment in favor of the plaintiff upon the 1st, 2d, 3d, 4th, 5th, and 6th causes of action, the defendant then and there in open court excepted. [28]

[Judgment.]

*In the United States District Court, District of
Arizona.*

Judgment Made and Entered on Friday, May 22d,
1914.

No. 5 (TUCSON).

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant.

This case came on for trial before the above-named court on the 21st day of May, 1914, at the regular May, 1914, Term thereof, held at Tucson, Thomas A. Flynn, United States Attorney, M. C. List, and Samuel L. Pattee, appearing as attorneys for the plaintiff, and Francis M. Hartman, Esquire, and B. O. Baker, Esquire, appearing as attorneys for the defendant; thereupon the plaintiff demurred to the answer of the defendant to the seventh, eighth, ninth, tenth, eleventh, and twelfth causes of action set forth in the complaint of plaintiff, and, after argument, it was ordered that said demurrer be overruled; thereupon a jury was empaneled and the cause proceeded to trial upon the first, second, third, fourth, fifth and sixth causes of action set forth in the complaint, and evidence was introduced on behalf of the respective parties, and at the close of the evidence the

Court instructed the jury to return a verdict in favor of plaintiff upon the first, second, third, fourth, fifth, and sixth causes of action aforesaid, and thereupon the jury returned a verdict in favor of the plaintiff upon each and all of said causes of action; and the plaintiff having elected to stand upon its demurrer to the answer to the seventh, eighth, ninth, tenth, eleventh, and twelfth causes of action and not to plead further with respect thereto, it was ordered that judgment be entered in favor of the defendant upon those causes of action; thereafter the Court fixed and determined the penalty to be imposed upon each of the causes of action so found in favor of the plaintiff, as follows, upon the [29] first and second causes of action, at the sum of One Dollar (\$1.00) each, and upon the third, fourth, fifth, and sixth causes of action, at the sum of One Hundred Dollars (\$100.00) each, and did order judgment be entered accordingly;

Now, therefore, pursuant to said orders for judgment and the proceedings aforesaid, it is hereby

ORDERED, ADJUDGED AND DECREED, that the plaintiff, the United States of America, do have and recover of and from the defendant, Southern Pacific Company, a corporation, the sum of Four Hundred and Two Dollars (\$402.00), the amount of penalties fixed as aforesaid and that it do have execution therefor.

And it is further ORDERED, ADJUDGED AND DECREED, that the said plaintiff take nothing by the seventh, eighth, ninth, tenth, eleventh, and twelfth causes of action in its complaint, and that

as to each and all those causes of action the defendant go hence without day.

And it is further ORDERED, ADJUDGED AND DECREED, that neither party recover any costs against the other, but that each party pay all costs incurred by it.

In accordance with the stipulation this day made by the parties hereto, it is ORDERED that the execution on said judgment be stayed for forty-two days from the date of said verdict. [30]

*In the District Court of the United States for the
District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant.

Petition for Writ of Error.

Now comes the United States of America, by Samuel L. Pattee, Assistant United States Attorney for the District *Attorney*, and respectfully shows:

1. That this action is brought to recover certain penalties arising under the Act of Congress commonly known as the "Hours of Service" act.

2. The petition or complaint in this action contains twelve counts or causes of action. On the 22d day of May, 1914, pursuant to an order heretofore made by the above-named court, judgment was rendered and entered herein in favor of the defendant, Southern

Pacific Company, upon the counts or causes of action numbered 6, 7, 8, 9, 10, 11, and 12. That the United States of America, feeling aggrieved by the said judgment upon said causes of action, desires to have the same reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, and to that end applies for the allowance of a writ of error and the signing of citation.

Dated June, 15th, 1914.

SAMUEL L. PATTEE,

Assistant United States Attorney for the District
of Arizona.

[Endorsement]: No. 5. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. Southern Pacific Company, a Corporation, Defendant. Petition for Writ of Error. Filed June 15, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy.
[31]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

UNITED STATES OF AMERICA,

Plaintiff in Error,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant in Error.

Assignments of Error.

And now comes the United States of America, by Thomas A. Flynn, United States Attorney for the

District of Arizona, and says that in the record and proceedings herein in the District Court of the United States for the District of Arizona, there is manifest error to the great prejudice of the said United States of America, in this, to wit:

1. The said District Court of the United States for the District of Arizona erred in overruling the Demurrer of the United States of America to the answer of the said Southern Pacific Company to the 7th, 8th, 9th, 10th, 11th, and 12th causes of action set forth in the petition or complaint herein for the reason that it does not appear from the said answer that the breaking-in-two of the train mentioned in said answer at Esmond, and the delay thereto, was not known to the said Southern Pacific Company, or its officer or agent in charge of the employees mentioned in said causes of action at the time they left a terminal.

2. The said District Court erred in overruling the said demurrer for the reason that it does not appear from said answer that the breaking-in-two of said train at Esmond prevented the said Southern Pacific Company from relieving the employee mentioned in any of said causes of action before he had been continuously on duty more than sixteen hours.

3. The said District Court erred in overruling said demurrer for the reason that it does not appear from the said answer that the failure of the said Southern Pacific Company to relieve the employee named in any of said causes of action before he had been continuously [32] on duty more than sixteen hours was due to a casualty or unavoidable accident or

the act of God; or that the failure so to relieve such employee was the result of a cause not known to said Southern Pacific Company or its officer or agent in charge of such employee at the time he left a terminal and which could not have been foreseen.

4. The said District Court erred in overruling said demurrer for the reason that it does not appear from the said answer that the said Southern Pacific Company made any effort whatsoever to relieve the employee named in any of said causes of action before he had been continuously on duty more than sixteen hours.

5. The said District Court erred in overruling said demurrer, for the reason that the matters set forth therein as a defense to said causes of action are insufficient in law to constitute a defense to any of said causes of action.

6. The said District Court erred in rendering judgment in favor of said Southern Pacific Company and against the said United States of America upon the 7th, 8th, 9th, 10th, 11th, and 12th causes of action set forth in said petition or complaint, for the reasons stated in the foregoing assignments of error.

Wherefore, by reason of the errors aforesaid, the said United States of America prays that the judgment rendered and entered in this action, so far as the same relates to the 7th, 8th, 9th, 10th, 11th, and 12th causes of action aforesaid, be avoided, annulled and reversed, and that judgment be rendered thereon

in favor of the said United States of America.

THOMAS A. FLYNN,

United States Attorney for the District of Arizona.

By SAMUEL L. PATTEE,

Assistant United States Attorney.

[Endorsement]: No. 5. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Plaintiff in Error, vs. Southern Pacific Company, a Corporation, Defendant in Error. Assignments of Error. Filed June 15th, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy. [33]

UNITED STATES OF AMERICA.

*District Court of the United States, District of
Arizona.*

Clerk's Office.

No. 5 (TUCSON).

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant.

Praeceptum [for Transcript of Record].

To the Clerk of said Court:

Sir: Please prepare and forward to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, transcript of record in the above-entitled action, upon a Writ of Error heretofore

sued out by the United States of America; said transcript to consist of the following papers:

1. The Bill of Complaint.
2. The Answer.
3. The Demurrer to the Answer.
4. The defendant's motion for judgment on the pleadings as to Counts Seven, Eight, Nine, Ten, Eleven and Twelve.
5. The minute entries of the trial, including the judgment.

6. The Petition for Writ of Error.

7. The Assignments of Error.

8. The Praecipe.

Also the Original Writ of Error and Citation, and the proper certificate as to the transcript.

SAMUEL L. PATTEE,

Assistant United States Attorney.

[Endorsement]: No. 5 (Tucson). U. S. District Court, District of Arizona. United States of America, Plaintiff, vs. Southern Pacific Company, a corporation, Defendant. Praecipe for Transcript of Record. Filed June 30, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy Clerk. [34]

**[Certificate of Clerk U. S. District Court to
Transcript of Record.]**

*In the District Court of the United States for the
District of Arizona.*

United States of America,

District of Arizona,—ss.

I, George W. Lewis, Clerk of the District Court

of the United States for the District of Arizona, do hereby certify that I am the custodian of the Records, papers and files of the said United States District Court for the District of Arizona, including the records, papers and files in the case of United States of America, Plaintiff, vs. Southern Pacific Company, a corporation, Defendant, said case being No. 5 (Tucson), on the docket of said court.

I further certify that the attached transcript contains a full, true and correct transcript of the proceedings in said case and of all papers filed therein, together with the endorsements of filing thereon, as set forth in the praecipe filed in said case and made a part of the transcript attached hereto, as the same appears from the originals of record and on file in my office as such Clerk in the City of Tucson, State and District aforesaid.

WITNESS my hand and the seal of said United States District Court this 2d day of July, A. D. 1914.

[Seal]

GEORGE W. LEWIS,

Clerk United States District Court, District of Arizona.

By Effie D. Botts,
Deputy Clerk. [35]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

UNITED STATES OF AMERICA,

Plaintiff in Error,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant in Error.

Writ of Error.

United States of America,—ss.

The President of the United States of America, to
the Judges of the District Court of the United
States for the District of Arizona, Greeting:

Because in the record and proceedings, as also in
the rendition of the judgment of a plea which is in
the said District Court of the United States, for the
District of Arizona, before you, or some of you, be-
tween the United States of America, plaintiff, and
Southern Pacific Company, a corporation, defend-
ant, a manifest error hath happened, to the great
damage of the United States of America, as it is said
and by its complaint appears;

We, being willing that such error, if any hath been,
should be duly corrected, and full and speedy justice
done to the parties aforesaid in this behalf, do com-
mand you, if judgment be therein given, that then,
under your seal, distinctly and openly, you send the
record and proceedings aforesaid, with all things con-
cerning the same, to the United States Circuit Court
of Appeals for the Ninth Circuit, together with this

writ, so that you have the same in the said United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, on the 14th day of July, A. D. 1914, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done. [36]

Witness the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States, this 15th day of June, in the year of our Lord one thousand nine hundred and fourteen.

GEORGE W. LEWIS,
Clerk of the District Court of the United States for
the District of Arizona.

By Effie D. Botts,
Deputy Clerk.

Allowed by:

WM. H. SAWTELLE,
United States District Judge, District of Arizona.
[37]

[Endorsed]: No. 5. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Plaintiff in Error, vs. Southern Pacific Company, a Corporation, Defendant in Error. Writ of Error. Filed June 15, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy. [38]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

UNITED STATES OF AMERICA,

Plaintiff in Error,

vs.

SOUTHERN PACIFIC COMPANY, a Corpora-
tion,

Defendant in Error.

Citation on Writ of Error.

United States of America,—ss.

To Southern Pacific Company, a Corporation, Greet-
ing:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, in the State of California, on the 14th day of July, A. D. 1914, pursuant to a writ of error filed in the office of the Clerk of the District Court of the United States for the District of Arizona, wherein the United States of America is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable EDWARD D. WHITE,
Chief Justice of the Supreme Court of the United States, this 15th day of June, in the year of our Lord

one thousand nine hundred and fourteen.

WM. H. SAWTELLE,

United States District Judge, District of Arizona.

[39]

[Endorsed]: No. 5. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Plaintiff in Error, vs. Southern Pacific Company, a Corporation, Defendant in Error. Citation on Writ of Error. Due service of the within citation and receipt of a copy thereof is hereby acknowledged this 16th day of June, 1914. Francis M. Hartman, Attorney for Defendant in Error. Filed June 16, 1914. George W. Lewis, Clerk. By Effie D. Botts, Deputy. [40]

[Endorsed]: No. 2443. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Plaintiff in Error, vs. The Southern Pacific Company, a Corporation, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the District of Arizona.

Received and filed July 7, 1914.

FRANK D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,

Deputy Clerk.

